

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CMC TELECOM, INC., et al.	)	
Plaintiffs,	)	
	)	No. 1:07-cv-319
-v-	)	
	)	HONORABLE PAUL L. MALONEY
MICHIGAN BELL TELEPHONE COMPANY,	)	
et al.,	)	
Defendants.	)	
_____	)	

**ORDER MODIFYING AND ADOPTING REPORT AND RECOMMENDATION**

Before this Court is a report and recommendation (“R&R”) (ECF No. 65) issued by the magistrate judge. Neither party objects to the substance of the R&R. Defendant Michigan Bell Company filed an objection as to certain language in the R&R. (ECF No. 70.) Plaintiff CMC Telecom consented to Defendant’s suggested modifications, without adopting any of the arguments advanced by Defendant. (ECF No. 71.)

Accordingly, the report shall be modified. The fifth sentence of the first paragraph of the report is modified to read as follows. “At the hearing, the parties were in agreement that the part of Count One that challenged the MPSC’s Order should be remanded to the Michigan Public Service Commission immediately for entry of an order consistent with the Sixth Circuit’s opinion.” The fifth sentence of the second paragraph of the report is modified to read as follows. “The undersigned, in reliance on the language of the parties’ joint status report (Dkt. 15) and in further reliance on the Court’s original Case Management Order (Dkt. 17), concluded that it had been the intention of the Court to bifurcate the damages issue from the challenge to the MPSC’s order, and that AT&T had not waived its right to bring a Rule 12(b)(6) motion on the damages portion of Count One of Plaintiffs’ Amended Complaint.”

The recommendations shall also be modified. The third recommendation shall read as follows. “As stipulated by the parties, the district judge shall remand to the Michigan Public Service Commission (“MPSC”) the portion of Count One that challenged the MPSC’s decision in Case No. U-14975 for entry of an order consistent with the Sixth Circuit Court of Appeals Opinion and Judgment (Dkt. 40).”

The report and recommendation (ECF No. 65) is **MODIFIED** with the changes specified above, and so **ADOPTED** as the opinion of this Court.

Date: September 9, 2011

/s/ Paul L. Maloney  
Paul L. Maloney  
Chief United States District Judge